

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ELNORSH DUCKWORTH

PLAINTIFF

VS.

CIVIL NO. 1:11cv1HSO-JMR

PRESTON GOFF

DEFENDANT

REPORT & RECOMMENDATION

This matter comes before the Court pursuant to Plaintiff's Motion [27] for leave to file an amended brief in support of his *habeas corpus* petition. Having considered the Motion[27], along with the entire record and applicable law, this Court recommends that the motion be denied.

Duckworth filed an appeal on October 19, 2011, of the final judgment entered in this case on September 28, 2011. The appeal is currently pending at the Fifth Circuit Court of Appeals. (Ct. R., Doc. 29.) Accordingly, jurisdiction over Duckworth's claims no longer lies with this Court, but with the Court of Appeals. For this reason, it is the recommendation of this Court that Duckworth's Motion [27] for leave to file an amended brief be denied.

In accordance with the Rules of this Court, any party, within fourteen days after being served a copy of this recommendation, or by no later than May 10, 2012, may serve and file written objections to the recommendations, with a copy to the District Judge, the United States Magistrate Judge, and the opposing party. The District Judge at that time may accept, reject or modify in whole or in part, the recommendation of the Magistrate Judge, or may receive further evidence or recommit the matter to this Court with instructions. Failure to timely file written objections to proposed findings, conclusions, and recommendations contained in this report will bar an aggrieved party, except on the grounds of plain error, from attacking on appeal unobjected to proposed factual findings and legal conclusions accepted by the District Court. *Douglass v.*

United States Auto Ass'n, 79 F.3d 1425 (5th Cir. 1996). A copy of this R&R has been forwarded to Petitioner at his last known address by certified mail, return receipt requested.

THIS the 26th day of April, 2012.

s/ John M. Roper, Sr.
CHIEF UNITED STATES MAGISTRATE JUDGE